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**FILED**

**MAR 3 2005**

**BOARD OF PHARMACY**

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STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF PHARMACY

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IN THE MATTER OF THE SUSPENSION  
OR REVOCATION OF THE LICENSE OF

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:  
: Administrative Action  
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**GUISEPPI CUCARO, R.P.**

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: **CONSENT ORDER**  
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TO PRACTICE PHARMACY IN THE  
STATE OF NEW JERSEY

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This matter was opened to the New Jersey State Board of Pharmacy upon the receipt of a request made by Guiseppi Cucaro for reinstatement of his license to practice pharmacy. Respondent surrendered his license by way of a Consent Order filed on May 12, 2004 (attached hereto and made a part of this Order).

Although the previous Board action was initiated after receipt of information that respondent had diverted controlled substances for his own use, to date, respondent continues to deny

engaging in any substance abuse, and has not participated in any rehabilitation program.

Having considered the proofs in this matter and finding the terms of this Order to be an adequate resolution, and it further appearing that respondent wishes to resolve this matter without the necessity of further formal proceedings, and for good cause shown,

IT IS THEREFORE ON THIS 2<sup>nd</sup> DAY OF March, 2005,

**ORDERED:**

1. That the license of Guiseppi Cucaro, R.P., to practice pharmacy be reinstated and immediately placed on a probationary status for no less than a one year period, subject to compliance with paragraphs 2 through 4 herein. In addition to other remedies available to the Board, if respondent violates any of the provisions of paragraph 2 through 4 herein, the Board may initiate proceedings to revoke his license to practice pharmacy.

2. Commencing on the date respondent begins employment as a pharmacist and continuously engages in the practice of pharmacy, pharmacist shall participate in a urine screen program as described hereinafter. Should there be any interruption in his employment as a pharmacist greater than one (1) week, the urine screen period of twelve (12) months shall begin anew.

(a) Guiseppi Cucaro, R.P., shall submit to random urine sampling two (2) times per week for the first six (6) months and

thereafter one (1) time per week at a laboratory facility approved by the Board for the duration of the probation. The urine monitoring shall be conducted with direct witnessing of the taking of the samples as designed by the laboratory facility. The initial drug screen shall utilize screening techniques and all confirming tests and/or secondary tests will be performed by gas/chromatography/mass spectrometry (G.C./M.S.). The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and to provide documentation in the event of a legal challenge.

(b) All test results shall be provided to Joanne Boyer, Executive Director of the Board, or her designee in the event she is unavailable. The Board also will retain sole discretion to modify the manner of testing in the event technical developments or individual requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing.

(c) Any failure by respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from Joanne Boyer, or her designee. Personnel at the lab facility shall not be

authorized to waive a urine test. In addition, respondent must provide the Board with written substantiation of his inability to appear for a test within two (2) days, e.g., a physician's report attesting that he was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day.

(d) In the event respondent will be out of the State for any reason, the Board shall be so advised so that arrangements may be made at the Board's discretion for alternate testing. The Board may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period.

(e) Any urine test result showing creatinine levels below 20 mg/dL and a specific gravity below 1.009 shall be deemed a rebuttable presumption of a confirmed positive urine test and shall be subject to G.C./M.S. secondary testing.

(f) Respondent shall familiarize himself with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Ingestion of such substances shall not be an acceptable reason for

a positive urine screen and/or failure to comply with the urine monitoring program.

3. Respondent shall abstain from the use of alcohol and controlled dangerous substances and shall not possess any controlled dangerous substances except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause in his own treatment. In addition, respondent shall advise any and all treating physicians and/or dentists of this Order and give them a copy thereof. Respondent shall cause any physician or dentist who prescribes medication which is a controlled dangerous substance to provide a written report to the Board together with patient records indicating the need for such medication. Such report shall be provided to the Board no later than two (2) days subsequent to the prescription in order to avoid confusion which may be caused by a confirmed positive urine test as a result of such medication.

4. (a) Respondent shall be subject to an order of automatic suspension of his license upon the Board's receipt of any information which the Board, in its sole discretion, deems reliable demonstrating that respondent has failed to comply with any of the conditions set forth in this Consent Order, including but not limited to report of a confirmed positive urine, or a prima facie showing of the existence of alcohol or drug abuse.

(b) Respondent shall have a right to apply for removal of the automatic suspension on ten (10) days notice to the Board and to the Attorney General. The Board may hold a hearing on that application before the full Board or before a committee of the Board. In the event a committee hears the application, its action shall be subject to ratification of the full Board at its next scheduled meeting. In a hearing seeking removal of the automatic suspension, any confirmed positive urine shall be presumed valid.

5. Execution of this Consent Order by pharmacist does not constitute an admission by pharmacist of either substance abuse or of alcohol abuse and may not be used as evidence in any other proceeding.

NEW JERSEY STATE BOARD OF PHARMACY

By: Pamela Allen, RPL  
Pamela Allen, R.P.,  
President

I have read the within Order and understand its terms. I consent to the entry of this Order by the New Jersey Board of Pharmacy.

Giuseppe Cucaro, R.P.